IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 10427 of 2007
Date of decision 10 .9 .2007

Vinod Kumar and others .. petitioners

Versus

Central Bank of India .. Respondent

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR
HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

PRESENT: Mr.Jatinder Singh, Advocate for the petitioner
Mr. Harcharan Singh, Advocate for the respondent

M.M.Kumar, J.

This petition filed under Article 226 of the Constitution prays for quashing notice dated 31.3.2007 (Annexure P.3) issued by the respondent Bank under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act,2002. Some other prayers have also been made alongwith interim prayer for staying the operation of notice.

On 17.7.2007 when the matter came up for hearing, this Court had recorded the statement of counsel for the petitioners to the effect that the petitioners were prepared to pay the whole amount to the respondent bank in quarterly instalments as per the offer made in their letters dated 8.11.2006 and 16.4.2007 (Annexures P.1 and P.2). The petitioners undertook to deposit a sum of Rs. 4 lacs on or before 31.7.2007. Notice of motion was issued for today subject to deposit of afore-mentioned amount by the date fixed. Status quo regarding the possession of the property in dispute was ordered to be maintained.

Mr. Harcharan Singh, learned counsel for the respondent bank has disclosed that the petitioners have failed to fulfill the undertaking given

to this Court and have not deposited a penny. Learned counsel has submitted that process of this Court has been mis-used and the writ petition in any case is liable to be dismissed.

We find that there is merit in the submission made by the learned counsel for the respondent-bank. Once the bona-fide of the petitioner as per undertaking of depositing Rs. 4 lacs by 31.7.2007 has not been established then the petitioners would lose the right of consideration of their case on merits. Thus the petition is liable to be dismissed.

For the reasons afore-mentioned this petition fails and the same is dismissed.

(M.M.Kumar)
Judge

(Ajay Kumar Mittal)
Judge

10 .9.2007
okg